

Message Text

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SUBJECT: UNGA LEGAL COMMITTEE: REPORT OF THE
INTERNATIONAL LAW COMMISSION (ILO)

1. AT OCT 29-31 LEGAL COMITE MEETINGS BRAZIL, JAPAN,
FINLAND, MONGOLIA, CZECHOSLOVAKIA, POLAND, NEW ZEALAND,
SWEDEN, USSR, AND CANADA DELS SPOKE IN SUBJECT ITEM
GENERAL DEBATE.

2. BRAZIL DEL (AMB. SETTE CAMARA) SPOKE AT LENGTH ABOUT
SPECIFIC PROVISIONS OF VARIOUS ILC DRAFT ARTICLES (CIPY
POUCHED L-AMB. KEARNEY). SOME BASIC POINTS WERE:
SETTE CAMARA PLEASSED TO SEE THERE IS NO RADICAL CHANGE
IN PRESENT DRAFT FROM LAST YEAR'S DRAFT, AND APPRECIATED
"CLEAN SLATE" APPROACH TO SUCCESSION OF STATES IN RELA-
TION TO TREATIES AS AN AFFIRMATION OF PEOPLES RIGHT TO
SELF-DETERMINATION. WITH REGARD TO NON-NAVIGATIONAL
USES OF WATERCOURSES, HE WAS CONCERNED LEST UNDERGROUND
WATERS OF A STATE FLOWING INTO A JOINT DRAINAGE BASIN BE
CONSIDERED WATERS SUBJECT TO INTERNATIONAL LAW. SETTE
CAMARA SUPPORTED ESTABLISHMENT OF A COMITE OF EXPERTS ON
THIS SUBJECT. HE SUPPORTED ILC POSITION WITH
REGARD TO THE HOINT INSPECTION UNIT (JIU) REPORT, AND
SUPPORTED A PERMANENT 12 WEEK SESSION FOR THE ILC.

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3. ON SUCCESSION OF STATES ISSUE, JAPAN DEL EXPRESSED GENERAL VIEW THAT ILC DRAFT ARTICLES PROVIDE USEFUL GUIDE TO STATES. ON "CLEAN SLATE" ISSUE, JAPAN DEL NOTED THAT FORMULATION OF THIS PRINCIPLE IN DRAFT ARTICLES DID NOT TAKE INTO ACCOUNT FACT THAT IN SOME INSTANCES DEPENDENT TERRITORIES ARE ACCORDED A GREAT DEAL OF INTERNATIONAL RESPONSIBILITY, OR AT LEAST ARE CONSULTED, REGARDING THE ADHERENCE TO TREATIES. ILC "CLEAN SLATE" APPROACH SHOULD BE REVIEWED TO TAKE INTO ACCOUNT THIS FACTOR. JAPAN DEL ALSO THOUGHT ILC SHOULD STUDY QUESTIONS OF SETTLEMENT OF DISPUTES AND MULTILATERAL TREATIES OF UNIVERSAL CHARACTER. AFTER SUFFICIENT STUDY THEREON, IT WOULD BE APPROPRIATE TO HOLD DIPLOMATIC CONFERENCE. JAPAN DEL SUPPORTED A 12-WEEK ILC SESSION.

4. FINLAND TOOK FLOOR FOR SECOND TIME SO THAT FINLAND DEL (BROMS) COULD SPEAK ON A SPECIFIC POINT IN ILC REPORT. BROMS SPEECH (COPY POUCHED L -AMB. KEARNEY) WAS SOLELY ON SUBJECT OF NON-NAVIGATIONAL USES OF WATERCOURSES. BROMS WENT INTO DETAILED RESPONSE TO QUESTIONS POSED BY ILC SUBCOMMITTEE ON ITEM. BASIC POINT OF BROMS INTERVENTION WAS ILC SHOULD NOT ONLY CONSIDER PREVIOUS WORK DONE ON SUBJECT, BUT SHOULD DULY TAKE INTO ACCOUNT RESULTS OF THAT PRIOR WORK.

5. OF NOTE IN MONGOLIA DEL REMARKS WAS VIEW THAT DRAFT ARTICLES ON SUCCESSION OF STATES SHOULD INCLUDE PROVISION TO DEAL WITH SUCCESSION IN CASE OF SOCIAL REVOLUTION. CZECHOSLOVAK DEL SUPPORTED THIS VIEW. POLISH DEL REMARKS WERE VERY GENERAL, INCLUDING STATEMENT THAT IT RESERVED RIGHT TO MAKE FULL VIEWS KNOWN ON DRAFT ARTICLES ON SUCCESSION OF STATES AT TIME OF DIPLOMATIC CONFERENCE.

6. NEW ZEALAND DEL DID NOT DISCUSS DRAFT ARTICLES, BUT RATHER DISCUSSED, AT LENGTH, AND APPLAUDED, OBJECTIVE WORKING PROCEDURES OF ILC WHICH PERMITTED DEVELOPMENT OF AT TEXT ON SUCCESSION OF STATES WHICH SOUGHT TO REFLECT IMPARTIALLY THOSE ELEMENTS MOST NECESSARY TO EFFECTIVE DEVELOPMENT AND CODIFICATION OF INTERNATIONAL LAW.

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7. SWEDEN DEL THOUGHT DRAFT ARTICLES ON SUCCESSION OF STATES HAD UNDERPLAYED NECESSITY OF "CONTINUITY" AND WAS NOT FULLY IN ACCORD WITH ILC "CLEAN SLATE" APPROACH. SWEDEN DEL THOUGHT IT WAS ESSENTIAL TO ESTABLISH AN EFFECTIVE DISPUTES SETTLEMENT CLAUSE IN TEXT, AND PROPOSED ILC BE INSTRUCTED TO PREPARE SUCH ARTICLES AT ITS NEXT SESSION. THUS, IN SWEDISH VIEW, ISSUE OF COVENING DIPLOMATIC CONFERENCE WAS PREMATURE AT THIS GA.

8. USSR DEL MADE LENGTHY COMMENTS CRITICIZING DRAFT ARTICLES ON (Q) SUCCESSION OF STATES, AND (2) STATE RESPONSIBILITY, AS WELL AS THE ILC WORKING METHODS IN GENERAL. USSR THINKS CONVENING DIPLOMATIC CONFERENCE ON SUBJECT OF SUCCESSION OF STATES PREMATURE, SINCE DRAFT ARTICLES ARE NOT YET SUFFICIENTLY REFINED. USSR IS NOT FULLY SATISFIED WITH ILC APPROACH TO "CLEAN SLATE" PRINCIPLE, THOUGH USSR GENERALLY SUPPORTS PRINCIPLE IF IT MEANS A NEW LW INDEPENDENT STATE IS FREE TO DECIDE WHETHER OR NOT TO BE BOUND BY A PREDECESSOR STATE'S TREATIES, AND WHERE SUCH TREATIES DO NOT AUTOMATICALLY TERMINATE UPON THE NEW STATE'S SUCCESSION. USSR DEL ALSO SUPPORTED MONGOLIAN VIEWS ON SOCIAL REVOLUTION. USSR DEL PROPOSED DRAFT ARTICLES BE CIRCULATED FOR COMMENTS OF GOVERNMENTS, AFTER RECEIPT OF WHICH THE ILC SHOULD ONCE AGAIN REVIEW TEXT, BASED ON LEGAL COMITE COMMENTS. ILC SHOULD CONSIDER AT THE SAME TIME THE QUESTIONS OF MULTI-LATERAL TREATIES OF UNIVERSAL CHARACTER AND A DISPUTE SETTLEMENT CLAUSE. USSR'S MAIN CRITICISM OF DRAFT ARTICLES ON STATE RESPONSIBILITY WAS THAT THERE WERE SO FEW AFTER SO MANY YEARS. USSR HOPES ILC WILL GIVE THIS ITEM PRIORITY CONSIDERATION. USSR DEL STATED IT WAS TIME TO SHORTEN ILC WORKING PERIOD AND INCREASE NUMBER OF MEETINGS PER SESSION; ACCORDINGLY HE COULD NOT SUPPORT A PERMANENT 12-WEEK SESSION FOR ILC. USSR DEL STATED THIS SHOULD NOT BE VIEWED AS CRITICISM OF ILC WHICH HAS ACCOMPLISHED MUCH IN TWENTY-FIVE YEARS, BUT SINCERE EFFORT TO ENHANCE ITS EFFECTIVENESS.

9. CANADAIN DEL DOUBTED ENOUGH WEIGHT HAD BEEN GIVEN TO DESIRABILITY OF "CONTINUITY" IN ILC DRAFT ARTICLES ON SUCCESSION OF STATES TREATMENT OF "CLEAN SLATE" PRINCIPLE,
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IN GENERAL, CANADAIN DEL FOUND ISSUE OF CONVENING DIPLOMATIC CONFERENCE PREMATURE. CANADA EVEN QUESTIONED WHETHER ILC SHOULD TURN ITS ENERGIES TO A DIFFERENT QUESTION, -3)6: SUCCESSION OF GOVERNMENTS, SINCE LATTER SEEMED A MORE RELEVANT PROBLEM THAN SUCCESSION OF STATES. CANADAIN DEL STATED THAT IF ILC BELIEVES ITS OBJECTIVES WOULD BE BETTER MET BY A 12-WEEK SESSION, CANADA IS PREPARED TO SUPPORT SUCH EXTENSION.
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